

EXHIBIT
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Legal Aid of North West Texas

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July 19, 2018

Paul Grimes
City Manager

Jennifer Arnold
Interim Director of Planning

City of McKinney
222 N. Tennessee St.
McKinney, TX 75069
Sent via electronic mail

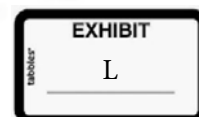
Dear Sir and Madam:

I write to you on behalf of Residents of High Point ("RHP") regarding Martin Marietta's proposed site plan, submitted to the city on June 20, 2018, regarding a concrete batching plant at the southeast corner of South McDonald Street and Steward Road. RHP requests that this proposed site plan be denied; or, in the alternative, that it be referred to the planning and zoning commission for a public hearing, as is authorized under McKinney City Code, Sec. 146-45(a)(2). This site plan, if approved, will perpetuate—if not accelerate—the devastating environmental and health consequences on the High Point community.

RHP is a coalition composed entirely of concerned residents of the High Point Mobile Home Community. High Point is a large mobile home community, housing more than 500 residents, most of whom are low-income families and individuals. The community is bordered to the north by three industrial plants—Lhoist, TXI/Martin Marietta, and CowTown Redi Mix. All three of these facilities arrived many years after the mobile home community was established. Since their arrival, these plants have substantially interfered with the residents' use and enjoyment of their properties by emitting excessive air pollution (including particulate matter, a well-known cause of asthma), causing excessive noise disturbances, and contributing to flooding and soil subsidence within the community. The facilities have caused, and continue to cause, "unreasonable discomfort to persons of ordinary sensibilities." *Crosstex N. Tex. Pipeline, L.P. v. Gardiner*, 505 S.W.3d 580, 593 (Tex. 2016) (describing what constitutes a legal nuisance).

RHP requests that this site plan be denied, as it violates McKinney City Code and contravenes the public interest. McKinney City Ordinance 70-120 states that "[n]o person shall allow, make or cause to be made any unreasonably loud or disturbing noise that is offensive to the sensibilities of a reasonable, prudent adult person, renders the enjoyment of life or property uncomfortable, interferes with public peace and comfort, or causes a noise disturbance as defined." Such prohibited activities include "[o]perating or permitting to be operated **any gravel**

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pit, rock crusher, or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel . . . within 500 feet of any residence, in such a manner as to cause noise disturbance.” Prohibited activities also include “[o]perating or permitting to be operated **any power equipment . . . within 500 feet of any residence** or quiet zone, in such a manner as to cause a noise disturbance.”¹ This plant falls into a common-sense reading of either of the above, as it will gather, combine, and crush rock and gravel into powdered concrete, and parts of the facility will be operated by electric-powered equipment. Moreover, this facility operates within 500 feet from High Point Mobile Home community, bringing it into the purview of the city’s ban on noise disturbances.

As demonstrated over the last weeks and months, this matter is not just important to RHP—it is important to the McKinney public at large. As such, the City should exercise its authority to not only ensure the facility would comply with city ordinances (RHP argues that it would *not*) but also to take a hard look at the public interest in this case. At the very least, referring the matter to the planning and zoning commission would allow the City to conduct more thorough investigations into the proposed facility’s effects on the High Point Community, and it would allow all affected residents—including those who live in High Point—to participate in a public hearing.

Thank you for your time and attention to this matter.

Warm Regards,



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Counsel for Residents of High Point

¹ The City recently conducted a short study on noise emissions from the three industrial facilities. It found no evidence of noise violations, but in doing so, discarded any and all findings that exceeded code as “be[ing] from traffic or transient noise [that] could not be isolated or associated to the Facility.” City staff concedes in its report that it “anticipates the need to continuing monitoring the area periodically.” Citizen-recorded evidence exists showing numerous noise violations from the facilities.